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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/810,979

03/26/2004

Russell Bonaventura

LEAP:133 US

9629

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03/01/2006

SIMPSON & SIMPSON, PLLC

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Williamsville, NY 14221

EXAMINER

LAVARIAS, ARNEL C

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/810,979

Applicant(s)

BONAVENTURA ET AL.

Examiner

Arnel C. Lavarias

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/11/06, 3/26/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 2, 5-7, 17, 19, 22, 23 and 26-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 8-16, 18, 20, 21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Invention I in the reply filed on 1/11/06 is acknowledged.
Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 2, 5-7, 17, 19, 22-23, 26-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/11/06.

Priority

3. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 120.

Drawings

4. The drawings were received on 3/26/04. These drawings are objected to for the following reason(s) as set forth below.
5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:
Figures 4-8, 10- Reference numeral 40
Figures 4-8- Reference numeral 62.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

Figure 9- line '9-9' (See Paragraph 0032).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “26” has been used to designate both mounting hole (See for example Figure 4) and an unknown portion of the microscope (See Figure 1). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
8. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “66” has been used to designate both a retainer bar (See Figure 4) and a stage edge (See Figure 11). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

9. The disclosure is objected to because of the following informalities:

Paragraph 14, line 7- 'slid' should read 'slide'

Paragraph 20, line 1- 'an' should read 'a'.

Appropriate correction is required.

10. The attempt to incorporate subject matter into this application by reference to the following documents (See *infra*) is ineffective because the reference documents are not clearly identified as required by 37 CFR 1.57(b)(2).

"Interchangeable Microscope Stage Drive Assembly" (See Paragraphs 0015, 0020)

"Releasable/Interchangeable Fine Focus Knob for a Microscope" (See Paragraph 0020)

"Ergonomically Arranged Object Adjustment Controls" (See Paragraph 0020)

"Lamp Assembly for a Microscope" (See Paragraph 0020)

"Means for Transporting a Microscope" (See Paragraph 0020)

11. The incorporation by reference will not be effective until correction is made to comply with 37 CFR 1.57(b), (c), or (d). If the incorporated material is relied upon to meet any outstanding objection, rejection, or other requirement imposed by the Office, the correction must be made within any time period set by the Office for responding to the objection, rejection, or other requirement for the incorporation to be effective. Compliance will not be held in abeyance with respect to responding to the objection,

rejection, or other requirement for the incorporation to be effective. In no case may the correction be made later than the close of prosecution as defined in 37 CFR 1.114(b), or abandonment of the application, whichever occurs earlier.

Any correction inserting material by amendment that was previously incorporated by reference must be accompanied by a statement that the material being inserted is the material incorporated by reference and the amendment contains no new matter. 37 CFR 1.57(f).

Claim Objections

12. Claims 9-16, 24-25 are objected to because of the following informalities:

Claims 9 and 11 both recite the limitation "a microscope stage drive mechanism" in line 2 of each of Claims 9 and 11. This limitation is also exactly recited in Claim 8, lines 1-2, which Claims 9 and 11 depend upon. It is not clear from the specification or from the drawings whether there is more than a single microscope drive mechanism at each location. For purposes of examination, this limitation has been taken to mean "the microscope stage drive mechanism" in both Claims 9 and 11, to correspond to the mechanism recited in Claim 8. Claims 10, 12-16, 24-25 depend on Claims 9 and 11, and hence inherit the deficiencies of Claims 9 and 11.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1, 3-4, 8, 18, 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawashima (U.S. Patent No. 3572888).

Kawashima discloses a microscope stage assembly (See Figures 1-6), which comprises a stage (See for example 1, 5 in Figures 1-3) having a top side and a bottom side; an opening (See 37, 38 in Figures 4-5) in the stage in the form of a linear slot; a carriage (See 17, 3 in Figures 3-5) positioned adjacent to the slot for movement in a direction generally parallel with the slot; drive means (See for example 19, 23 in Figure 1; See also Figure 6) for the carriage and the stage; specimen retaining means (See 2, 2a, 2b in Figure 1) on the top side of the stage; and means (See for example 17, 14 in Figures 3-5) for affixing the specimen retaining means to the carriage through the opening in the stage. Kawashima further discloses a stage mounting plate for mounting the assembly to a microscope (See for example 5, 9 in Figure 2); drive means for movement of the stage relative to the mounting plate in a y-axis (See for example 23 in Figures 2, 6); a microscope comprising the stage drive assembly (See Abstract); and a first engagement means (See for example 25 or 27 in Figures 2, 6) for a microscope stage drive mechanism (See for example 19, 23 in Figures 2, 6) at a first location on the stage, and a second

engagement means (See for example 25 or 27 in Figures 2, 6) for the microscope stage drive mechanism at a second location on the stage.

15. Claims 9-10, 13, 15, 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawashima.

Kawashima discloses the invention as set forth above in Section 13. Kawashima additionally discloses the first location further comprising the microscope stage drive mechanism and a rack (See for example 19, 22, 25, 30, 13 in Figures 2, 6) operatively arranged to engage the microscope stage drive mechanism for movement of the stage in a y-axis; the rack mounted to the stage mounting plate (See 30, 13 in Figures 2, 6), the microscope stage drive mechanism and the rack operatively arranged for movement of the stage relative to the mounting plate in a y-axis; the microscope stage drive mechanism is a unitary device adapted for movement of both the carriage and the specimen retainer means relative to the stage in an x-axis, and movement of the stage relative to the stage mounting plate in a y-axis (See 19, 23 in Figures 2, 6); the unitary microscope stage drive mechanism comprises an inner drive shaft and an outer drive shaft arranged coaxially with respect to the inner drive shaft (See 19, 23 in Figures 2, 6); and the microscope comprising the drive assembly (See Abstract).

16. Claims 11-12, 14, 16, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawashima.

Kawashima discloses the invention as set forth above in Section 13. Kawashima additionally discloses the second location further comprising the microscope stage drive mechanism and a rack (See for example 19, 22, 25, 30, 13 in Figures 2, 6) operatively

arranged to engage the microscope stage drive mechanism; the rack mounted to the stage mounting plate (See 30, 13 in Figures 2, 6), the microscope stage drive mechanism and the rack operatively arranged for movement of the stage relative to the mounting plate in a y-axis; the microscope stage drive mechanism is a unitary device adapted for movement of both the carriage and the specimen retainer means relative to the stage in an x-axis, and movement of the stage relative to the stage mounting plate in a y-axis (See 19, 23 in Figures 2, 6); the unitary microscope stage drive mechanism comprises an inner drive shaft and an outer drive shaft arranged coaxially with respect to the inner drive shaft (See 19, 23 in Figures 2, 6); and the microscope comprising the drive assembly (See Abstract).

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arnel C. Lavarias
Patent Examiner
Group Art Unit 2872
2/19/06